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C O N F I D E N T I A L SECTION 01 OF 04 BAGHDAD 004020

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SUBJECT: IRAQ'S REGIONS FORMATION LAW: LESSONS LEARNED AND  
FUTURE IMPLICATIONS

REF: A. BAGHDAD 3900  
[1](#)B. BAGHDAD 3863  
[1](#)C. BAGHDAD 3861  
[1](#)D. BAGHDAD 3835  
[1](#)E. BAGHDAD 3789

Classified By: Political Counselor Margaret Scobey for reasons 1.4 (b)  
and (d).

[1](#)1. (C) SUMMARY: The Iraqi Council of Representatives (CoR) passed on October 11 a law defining the executive procedures for forming regions (ref E). The law was extremely contentious: all Arab Sunni MPs boycotted the session where the vote took place, and some described the law as paving the way for Iraq's partition. Yet the legislative maneuvering that took place over the month-plus period between the initial draft and the vote showed that the CoR and its constituent parties and members are maturing, if unevenly. The Shi'a coalition split, with Fadhila and the Sadrists finding some common ground with the Sunni blocs. While Tawafuq and individuals from Iraqiyya were able to force several important modifications to the initial draft, in the end SCIRI's superior legislative tactics carried the day. In addition to shedding light on the tactics of and interplay between CoR's parties and blocs, the debate over the regions formation law uncovered, often indirectly, some of their underlying fears and motivation. SCIRI's determination to pass the law may indicate Abdulaziz al-Hakim's desire to create a nine-province Shi'a region under his sway, but it may also reflect an abiding fear of a strong central government. The Sunni blocs' opposition clearly reflects their concern about a weak central government, but underlying this concern is likely an unwillingness to accept an Iraqi state in which their power is severely limited. END SUMMARY.

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The Regions Formation Law: Issues at Stake  
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[1](#)2. (C) The regions formation law is just one of the legal foundations that will determine the shape of Iraq's federalism. The constitution is the most important foundation, as it identified Iraq as a federal system, defined the powers of regions and the central government, set principles for distributing oil revenues, recognized Kurdistan as a region, set a mechanism for determining Kirkuk's status, prohibited Baghdad from joining a region, and mandated a constitutional review process (through which aspects of federalism could be revisited). The constitution also mandated the CoR to enact a law defining the procedures for forming a region within six months from its first session (a deadline interpreted to expire October 22, 2006) and called for further legislation to define the powers of provinces. The key issues in the regions formation law itself included the number of provinces that could join into

a region, the referendum and approval process, and the timing of the law's implementation. The Sunni blocs also called into question the legitimacy of passing a law on regions formation before completing the constitutional review process.

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The Shi'a Coalition: SCIRI's Drive Forces a Split  
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13. (C) The regions formation law showed SCIRI initiative from start to finish, with significant but not vocal support from Dawa. Although the initial draft was presented as the "Shi'a coalition version," the primary drafters were from SCIRI and Dawa. SCIRI CoR members were instrumental in brokering the compromises necessary to achieve quorum for the first and second readings of the bill. On the day the vote was scheduled, staffers of Humam Hamoudi (SCIRI) and Ali al-Adeeb (Dawa) counted members and worked the phones in an effort to achieve quorum. Hadi al-Amri (SCIRI/Badr) played the role of whip and also, with the help of Dawa, Dawa Tanzim, and Kurdish representatives, helped broker a deal with Tawafuq and Iraqiyya representatives that brought seven Iraqiyya members (though not Tawafuq) into the room to achieve quorum. Also on the day of the vote, Abdulaziz al-Hakim attended his first CoR session since the opening session. While we do not know if he came in order to help achieve quorum (PolOff counted the bare minimum necessary for quorum during the vote) or to celebrate the culmination of SCIRI's efforts, his presence indicates SCIRI's drive to pass the bill and the importance al-Hakim attached to it.

14. (C) Why did al-Hakim and SCIRI place so much importance on the regions formation law? There are two schools of thought. Many of SCIRI's Shi'a and Sunni opponents believe

BAGHDAD 00004020 002 OF 004

that SCIRI seeks to form a nine-province Shi'a region in the center and south dominated, of course, by SCIRI. The second school of thought, offered frequently to us by Shi'a leaders from various groups in the coalition, is that the Shi'a see federalism as one means of guaranteeing that they will never again be ruled by a despotic Sunni central government. In his Eid al-Fitr sermon, al-Hakim emphasized the latter school of thought, arguing that federalism will ensure that no Iraqi ruler derives his power from "killing, destruction, and mass graves." Yet he also called for a region in the center and south, noting that it was up to the Iraqi people to decide for themselves.

15. (C) The changes accepted by SCIRI during negotiations on the bill, as well as the choices made by other Shi'a parties, do not provide conclusive evidence for either school of thought. SCIRI's initial draft allowed for a nine-region province, created a low hurdle for a successful referendum (a majority of votes cast in the entire referendum area), and allowed for immediate implementation. When EmbOffs pointed out to several SCIRI leaders, including Vice President Adel Abdel Mehdi, that it would make more sense to define a successful referendum as a majority of votes cast in each province taking part, they immediately agreed that the provision as written was "undemocratic" or "illogical" and subsequently changed the draft bill. In negotiations to achieve quorum for the first reading of the bill, drafters inserted an 18 month waiting period until implementation. Finally, in negotiations to achieve quorum for the vote, SCIRI and its allies agreed to add an additional condition for a successful referendum, namely that voter participation be 50 percent or greater. (Note: The law does not clearly specify whether this participation rate must be achieved in each province, or in the referendum area as a whole. End note.) The final version of the law allows for the possibility of a nine province region, but it cannot be as easily or as immediately achieved as SCIRI's initial draft would have allowed.

16. (C) Within the Shi'a coalition, Dawa, Dawa Tanzim, and

the independents followed SCIRI/Badr's lead. Fadhila offered its own draft version, which would have initially limited a region to only one governorate, but did not participate in the final negotiations or the vote, and the Sadrists did not actively participate in the legislative process or the vote. While the Sadrists based their stance on a principled refusal to discuss federalism while the country was under "occupation" and Fadhila based its stance on its preference for a gradual approach to federalism, our assessment, based on conversations with Fadhila members and others in the Shi'a coalition, is that their fear of domination by SCIRI in the south was a greater motivating factor. The actions and public and private statements of Dawa, Dawa Tanzim, and the independents suggest that they do not have the same fear. Their motivations in supporting SCIRI appeared to be support for the principle of federalism and a genuine desire to uphold the constitution by passing a regions formation law by October 22. Several Dawa members and independents told EmbOffs that a lengthy period of education and capacity building would be necessary before any southern or central governorate would be ready to be part of a region. They did not seem concerned that SCIRI would try to create and dominate a nine-province Shi'a region: one Dawa strategist commented that such an effort would fail at the ballot box (ref A).

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Sunni Arab Blocs: Active, but Limited in Effect  
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17. (C) The major Sunni Arab blocs (Tawafuq and Hewar) opposed the regions formation law from the beginning, not, they said, because of the executive procedures themselves but because they opposed the extent of regional (vice federal) powers as written in the constitution. They argued that the constitutional review process should precede the regions formation law and sought chairmanship of the governorates committee so they could shape and control federalism-related legislation. While they were unable to achieve their major goal of delaying the regions formation law until after the completion of constitutional review, they did force the Shi'a coalition to make some changes to the regions formation law.

18. (C) Although Tawafuq secured the chair of the governorates committee in the person of Iraqi People's Conference (IPC) Chair Dhafer al-Ani, his chairmanship did not prevent the Shi'a coalition from taking the initiative. With al-Ani in the UAE over the August recess, Nada al-Sudani (Shi'a coalition/Dawa), the committee's deputy chair, moved

BAGHDAD 00004020 003 OF 004

the Shi'a coalition's draft forward by submitting it directly to the CoR's Presidency Commission with ten members' signatures. With the initiative lost, Tawafuq, led by the Iraqi Islamic Party (IIP), pursued a dual strategy of presenting technical and constitution-based objections to the draft legislation, so as to delay movement on it, while working on a draft law that would make it more difficult to form a region. (Note: Hewar did not engage in trying to modify the draft law. Within Tawafuq, the National Dialogue Council was also virtually absent from discussions on the bill. End note.) For example, Tawafuq's version of the regions formation law required a census before implementation and a judicial "independent credibility check" on a request to form a region. Tawafuq also sought to delay consideration of the regions formation law through a ruling from the court that the constitutional review had to be completed first; they lost their case. Attempts to delay movement on the law included boycotting several CoR sessions despite previous agreements to go forward with the legislation. In one case, more hard line Tawafuq members tried to cause the Kurdish delegation to walk out of a CoR session where the legislation was being discussed by baiting them over the draft KRG constitution.

19. (C) Tawafuq's dual strategy did produce some results. As

part of the deal to allow the first reading to proceed, Itilaf agreed to insert a provision calling for an 18-month moratorium on implementation. In order to get Tawafuq to agree to a second reading, the CoR named a constitutional review committee. Final negotiations before the actual vote led to the insertion of a clause stipulating a 50 percent voter participation hurdle to the approval of a referendum on region formation. Yet in our assessment Tawafuq did not achieve as much as it could have: the delay strategy ultimately failed (as quorum was achieved for the final vote despite the Sunni Arab blocs' boycott), and Tawafuq did not have a clear plan for making region formation more difficult in the draft law. In fact, Tawafuq members themselves described their version of the regions bill more as a delaying tactic than a serious proposal. Although EmbOfs observed some communication between Tawafuq and Fadhila/Sadrist members, there was no serious attempt to coordinate strategies or rally support for a single alternative proposal.

¶10. (C) Tawafuq's dual strategy reflects the predicament that confronts most Sunni Arab MPs themselves (ref D). They contest the legitimacy of the constitution and therefore demand that it be revised before its controversial provisions are implemented. They face a challenge for leadership within the Sunni community from those who call for a "national salvation government" dominated by Sunni Arabs. Yet given their small numbers in real leadership positions in government, their relative inexperience, and, until now, their inability to deliver an end to the insurgency, the Sunni's political power is limited, particularly in the constitutional review process. Through their dual strategy, culminating in their absence during the televised session where the law was passed, Tawafuq CoR members were able to portray themselves as representing Sunni grievances regarding the constitution while at the same time using their limited numbers to force some changes to the bill at hand. The irony is that federalism may ultimately prove to be in Sunni interests as a way to protect their rights as a minority community. Embracing federalism, however, would mean implicit approval of Iraq's current institutions, a step neither the Sunni street nor its political leaders are ready to take.

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The Kurds ) Totally Committed to Federalism  
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¶11. (C) True to their overriding commitment to federalism, the Kurds played a vital role in ensuring that the regions formation law passed. From the first day the Shia Coalition tried to force the law onto the CoR agenda, the Kurds supported the bill vocally, calling for a vote on the motion to introduce the bill. When certain members of Tawafuq and Hewan tried to bait the Kurds during the first reading on September 7, Kurdish Alliance bloc leaders actively ensured that the members would not react and the reading could proceed. Opponents of the bill believed that SCIRI and the Kurds had made a deal during the Constitution drafting period, whereby SCIRI would support Kurdish demands for a referendum on Kirkuk's future status and strong regional powers and the Kurds would support the creation of a similar region in the south. An indication of Kurdish commitment to supporting this law was the presence of Kurdish Alliance CoR

BAGHDAD 00004020 004 OF 004

member Samia Aziz Khsro on the day of the final vote, despite her urgent personal need to arrange for a visa for a close relative wounded in a terrorist attack.

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Iraqiyya ) Relevant, at the End, as Individuals  
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¶12. (C) Throughout the regions formation law debate, Iraqiyya acted as it has since the CoR first met: as an uncoordinated

collection of individuals under a secular umbrella. There was no common position within the bloc on the regions formation law: Judge Wa'il Abdulateef was a passionate defender of federalism and pushed for the adoption of the regions formation law, but others took a position similar to the Arab Sunni blocs. Iraqiyya did produce its own draft of for a regions formation law, but they offered it too late in the legislative process to have an impact and did not noticeably engage in deal-making until the day of the final vote. On that day, Hamid Majeed Mousa participated in negotiating final modifications to the bill (specifically the 50 percent participation rate requirement) and led a group of approximately 5 Iraqiyya members into the session, thus assuring quorum. Iraqiyya's fragmentation was apparent in media and private comments made by several of its members after the vote: Abdulateef claimed that Iyad Allawi had allowed Iraqiyya members to make their own decisions, yet party secretary Maysoon al-Damluji told the Ambassador that Allawi had instructed the party to boycott the vote (ref C).

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Where Do We Go From Here?  
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¶13. (C) The federalism debate is by no means over. In the short term, similar fault lines are likely to appear during the constitutional review process and in anticipated upcoming legislation on hydrocarbons and provincial powers. The debate will continue in the medium-term during provincial elections and in the resolution of Kirkuk. Federalism will also be a centerpiece of the political and public outreach strategies of the various political parties: SCIRI and Dawa leaders have said their parties will undertake education efforts to discuss the implications of federalism with their constituencies. Shortly before the regions formation law passed, SCIRI parliamentarian Humam Hamoudi told the Ambassador that the "real debate" on federalism would not take place for two years, when the Arab Iraqi public would begin to face the question of whether their province should become a region, or part of one (ref B).

¶14. (C) The outcome of these processes will depend in part on the continued maturation of Iraq's parties and leaders. While we can expect the Kurds to maintain their absolute commitment to the maximum possible decentralization and strongest regional powers, the positions of the Sunni and Shi'a parties may change. If SCIRI and others in the Shi'a coalition grow more comfortable with their power in Iraq's central government, they may see no reason to form regions in the center and south, or at least they may proceed gradually. Several Sunni leaders are already on the record as supporting gradual decentralization, and they may ultimately find forming a Sunni-majority region to be in their interest if they reconcile themselves to their limited influence in Iraq's central government and are confident in gaining a proportional share of Iraq's oil revenues.

¶15. (C) We do not read the regions formation law as a disaster for the Sunni Arab blocs or as proof that Abdulaziz al-Hakim will seek to create a nine province Shi'a region dominated by SCIRI's Islamist vision. Instead, we read it as a reflection of the current state of development of the parties and blocs, in terms of both their tactical capabilities and underlying fears and motivations. Politically speaking, the law may prove to be a step in the partitioning of Iraq, but it may also prove a step in the political maturation of Iraqi parties and leaders. The current sectarian violence, part of which clearly represents a turf war between Shi'a and Sunni extremists, is a far more proximate and serious blow to those who seek a unified and strong Iraq than the regions formation law.

KHALILZAD